

## REMARKS

In the Office Action the Examiner rejected the sole remaining claim, claim 3. Claim 3 was objected to under 35 U.S.C. § 112 as reciting limitations having insufficient antecedent basis. Claim 3 was further rejected under § 112 for having no consistency in the claim and on grounds that the claim is indefinite.

These objections have been corrected in amended claim 3.

Claim 3 was also rejected under 35 U.S.C. § 103(a) as being unpatentable over Sitnik in view of Nakamura.

Sitnik discloses an apparatus and method for retrieving a plurality of separate information streams and providing a plurality of audio information signals to a plurality of portable receivers. The receivers are serviced by a single information transmitter system but otherwise have no relationship to one another. The information content received by each receiver is selected or influenced by a user and directed specifically to that user, but has no impact upon any other information stream. The system of Sitnik transmits a plurality of separate works independently to the plurality of receivers without any attempt to process the information being transmitted other than to place the source data stream upon a channel being received by a receiver. Because each information stream is complete in and of itself, there is no coordination of the transfer of information on different channels, and no requirement that the multiple transmissions be synchronized, and Sitnik does not suggest that the multiple channels be handled in this manner. Although the information carried on each "channel" of Sitnik may be selected or influenced by a user's preferences, the impact of those preferences affects only the information being transmitted on a single channel, and does not otherwise influence the content of any other channel in the plurality of channels being simultaneously transmitted. In addition, information provided to the

input of the system and apparatus of Sitnik consists of separate and independent information streams having no relationship to one another, each information stream relating to a single "channel" and each one constituting a complete audio transmission in and of itself. Moreover, the information being transmitted is supplied essentially in real time and is listened to one time, but is not collected or saved as a file that can be reproduced in the future.

Nakamura discloses a car-borne system for reproducing multiple channel music sources in high quality sound. Nakamura, however, is limited to a system that accepts either four channels or five channels of "input" that is provided by the sound reproduction equipment. A four channel input provides channels only for the right front and rear speakers and the left front and rear speakers. The five channel input includes the previously mentioned four channels, and adds a fifth channel for a front, center speaker. The system of Nakamura then redistributes the four or five inputs simply by redirecting a portion of the data being sent to any combination of the front speakers to one or another of the rear speakers. The result is the elimination of the "unnatural" positioning of vocal sounds that had previously been considered unavoidable in car borne acoustic systems.

Nakamura does not disclose a system in which more than five input channels are to be processed, and does not disclose input channels that receive data other than what has already been processed for a right front speaker, a right rear speaker, a left front speaker, a left rear speaker, and sometimes a center front speaker. Nakamura does not disclose processing data streams based upon predetermined information regarding the a number of output channels other than four or five, and does not disclose the processing of information based upon the types of speakers that are connected to each channel. Moreover, Nakamura does not disclose the maintenance or selection of acoustic profiles from an acoustic profile database, nor the

processing of data streams as modified by a customer's personal preferences to achieve a customized recorded work that is tailored for a specific customer. As with Sitnik, Nakamura does not disclose the processing of a first plurality of input channels to produce a second plurality of output channels to be recorded. Both Sitnik and Nakamura operate essentially in only in real time, and do not produce customized multiple channel works suitable for recording and playback upon specific sound reproduction equipment.

By contrast, Applicant's invention requires the simultaneous, or synchronized, "transmission" of all channels in a master multiple channel recording to a multiple channel mixer that also receives input from an acoustic database and that processes each of the channels as modified by information from the acoustic database to produce a synchronized multiple channel output that is then recorded on a recording medium. The multiple channel mixer modifies the content of each stream, and mixes a portion of the content of various streams with one another, thereby normally reducing the overall number of output streams to equal the number of channels in the intended playback system. The resulting streams are then sent to a recording medium, which may be a hard drive or a computer or a compact disk or some other memory-retention device, and are recorded as channels capable of being reproduced and played back in a user's specific sound reproduction system. The recording process of Applicant's invention does not require a real-time reproduction of the acoustic patterns comprising the customized multiple channel recording, but can record at the fastest speed permitted by the recording medium and associated memory transfer means.

The Examiner has stated that, although Sitnik does not explicitly disclose a multichannel record by mixing and combining the source channels, Nakamura is cited to show the concept of creating a new multichannel record by mixing and combining the source channels in various

ways to fit a previous selection of preferences defined by the customer. Nakamura does not, however, disclose the use of audio techniques of amplification, attenuation, phase correction, equalization, and filtering to fit a previous selection of preferences defined by the customer for at least the number of channels, type of speaker attached to each channel, sound reproduction system characteristics, reproduction environment characteristics, customer preferences related to the use of the record, or optional content available for the record. Nakamura does not even disclose the use of a record or other recording medium to capture the output of its system. Nakamura makes no attempt to modify the output in accordance with customer preferences or to accept optional content. Nakamura discloses, simply, a system for redirecting some of the output from a four or five channel sound reproduction system to a four or five speaker configuration within an automobile. There is no suggestion for modifying the content of the channels to accommodate personal preferences, nor to access an acoustic database to obtain a specific acoustic profile that has been tailored to a specific listening environment.

Moreover, the Examiner recites no basis why a person of ordinary skill in the art would be inclined to combine the multiple channel system of Sitnik with that of Nakamura. Sitnik reproduces a plurality of discrete musical works that are transmitted to a plurality of discrete mobile receivers situated in a commercial establishment. Sitnik is not concerned with the quality of sound reproduction, nor with the use of multiple channels to convey portions of a single, synchronized acoustic work. Nakamura processes only a single musical work at a time, and simply redirects some of the data streams intended for front speakers to rear speakers in an automobile. Neither Sitnik nor Nakamura suggests a method of doing business whereby a source of master multiple channel recordings, which may be a database, provides a multiple channel input that is modified within a mixer using information from an acoustic record taken from an

acoustic database to produce a customized multiple channel recording for use by a specific customer using a specific sound reproduction system within a specific acoustic environment, and containing user-specified additional content. Moreover, neither Sitnik nor Nakamura discloses a method of doing business that permits a customer to modify the customer's acoustic profile when equipment is updated, or that permits a customer to purchase a plurality of recordings based upon different master multiple channel recordings but customized for playback over the same sound reproduction equipment within the same acoustic environment and employing the same customer preferences as each other recording purchased by that customer. A person of ordinary skill in the art would not be induced by the disclosures of Sitnik or Nakamura to combine them in attempting to create a high quality recording for the playback of multiple channel recordings.

Applicant's invention is distinguished over Sitnik and Nakamura in its use of databases to provide a master multiple channel recording and a customized acoustic profile, a payment processing means, a multiple channel mixing processor, to produce a recorded multiple channel output in other than real time. As a method of doing business, Applicant's use of databases to compile customized acoustic profiles, and to produce recorded multiple channel works tailored to be reproduced upon specific sound reproduction equipment using specific speaker types in accordance with a user's preferences, and to be able to do so multiple times using any given master multiple channel recording, is not disclosed or suggested anywhere in the prior art recited by the Examiner.

Claim 3 has been amended to adopt the limitations that distinguish Applicant's method of doing business over the prior art, as noted above. Claims 4 – 15 have been added to further clarify and fully distinguish Applicant's invention over known prior art in accordance with the

argument and analysis provided herein. The Examiner is respectfully requested to withdraw his rejection of claim 3, and to approve claims 3 – 15 as patentable over the prior art of record.

Respectfully submitted,



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